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STATEMENT OF FACTS

Respondent Harold Holliday, Jr. adopts and incorporates by reference Informant's Statement of Facts.

In addition, Respondent states that he contested the majority of the allegations in the Information filed against him. **App. 2-13.** Respondent agreed to the Joint Stipulation and recommended discipline since he acknowledged violations of certain Rules. As this Court will see after its review of the Information, Respondent's Answer, and the Joint Stipulation, the Office of Chief Disciplinary Counsel had originally charged Respondent with alleged violations of Rules 4-1.2, 4-1.4, 4-1.5(c), 4-1.16(a)(3), 4-1.7 (a) and (b), 4-1.7(3), 4-5.3, and 4-8.4(d); however, Respondent has evidence to refute most of the allegations in the Information and refused to agree to those violations. Respondent informally shared this evidence with Informant. As a result, the Joint Stipulation only charges Respondent with violations of Rule 4-1.5(c) (for failing to provide a written contingent fee agreement), Rule 4-1.4 (for failing to keep client reasonably informed), and Rule 4-1.7(b) (for violating the general conflict of interest rule).

Further, Respondent states that the Joint Stipulation provides that, in the event that this Court rejects the Joint Stipulation of Facts and Recommended Discipline of a Public Reprimand with Additional Conditions, the stipulation of facts contained therein will not be binding on either party and both parties may invoke their right to a hearing before a disciplinary panel. **App. 7 of Informant's Appendix.** Respondent insisted that he retain the right to dispute the facts set forth in the Information since Respondent has evidence to refute most of the allegations contained therein.

Lastly, as set forth in Informant's Brief, Respondent willfully allowed Staff Counsel of Informant to conduct a seminar at Respondent's office to highlight the applicable Rules of Professional Conduct of the Missouri Bar and Judiciary and to ensure that Respondent and his staff understand and adhere to both the letter and the principles outlined by those Rules. Moreover, Respondent, for the past fourteen months, has ensured that all contingent fee arrangements between his firm and his clients are in writing in full compliance with Rule 4-1.5(c). **App. 14.**

ARGUMENT

THE SUPREME COURT SHOULD PUBLICLY REPRIMAND RESPONDENT AND ORDER HIM TO COMPLY WITH THE SPECIAL CONDITIONS STIPULATED TO BY THE PARTIES FOR THE REASONS SET FORTH IN INFORMANT’S BRIEF, AND BECAUSE APPROVING THE STIPULATED SANCTION IS IN THE INTEREST OF JUSTICE BECAUSE PEACEFUL SETTLEMENTS OF DISPUTES ARE ALWAYS ENCOURAGED IN THE LAW.

Respondent adopts and incorporates by reference the arguments in favor of approving the Joint Stipulation set forth in Informant’s Brief.¹

In addition, Respondent states that approval of the Joint Stipulation is in the interest of justice because peaceful settlements of disputes are always encouraged in the law. *See B-Mall Co. v. Williamson*, 977 S.W.2d 74, 77 (1998). A stipulated sanction such as this one is most analogous to a plea bargain. As the United States Supreme Court has recognized, plea bargaining is an essential component of the administration of justice

¹ Respondent emphasizes the point made in Informant’s Brief that Respondent’s clients suffered little, if any, financial harm as a result of Respondent’s alleged violations as a significant factor tipping the scales in favor of the discipline agreed upon between the parties. (Informant’s Brief at 11; *see also* **App. 8 of Informant’s Appendix** (where the parties stipulated that none of the complainants had any of their legal rights impaired because of Respondent’s act, although two complainants were delayed in the ultimate dispositions of their case.)

that is highly desirable for many reasons. *Santobello v. New York*, 404 U.S. 257, 260-261 (1971). The benefits of plea bargaining are obvious: the relief of court congestion, cost-savings, and the alleviation of the risks and uncertainties of trial.

Here, the risk and uncertainty of holding a hearing was particularly acute as Respondent was prepared to defend his case with vigor. As set forth in the Statement of Facts, the Respondent has evidence to dispute most of the allegations of his former clients. Here, where there was a bona fide and reasonable disagreement between the parties regarding the claims made, a compromise is particularly appropriate.

Indeed, as Informant correctly points out in its Brief, both sides herein have compromised to gain a good resolution. (Informant's Brief at 10.) That compromise has required Respondent to accept responsibility for his actions, and to arrange training at his offices for himself and his staff by Informant's Staff Counsel to address the specific issues raised by the pending complaints. Respondent's commitment to righting any wrongs he may have committed is demonstrated by the fact that that training has already taken place, and the suggestions made by Staff Counsel to avoid future problems have been implemented by Respondent's office. In fact, before the Joint Stipulation was concluded, Respondent began ensuring that every single contingent fee arrangement between himself (or any attorney working for him) and a client was put in writing in accordance with Rule 4-1.5(c). Respondent's cooperation with Informant and dedication to moving forward in full adherence to the Rules of Professional Conduct are additional reasons that this Court should approve the Joint Stipulation.

Certificate of Service:

The undersigned certifies that a true and correct copy of the foregoing was sent via regular U.S. Mail this ____ day of _____ 2004 to the following:

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CERTIFICATION: RULE 84.06(c)

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03.
2. Complies with the limitations contained in Rule 84.06(b);
3. Contains 929 words, according to Microsoft Word, which is the word processing system used to prepare this brief; and
4. That Norton Anti-Virus software was used to scan the disk for viruses and that it is virus free.

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Laura T. Goettsch